

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHARLES V. FARNSWORTH,

Plaintiff,

v.

PIERCE COUNTY JAIL, *et al.*,

Defendants.

Case No. C07-5035 RBL/KLS

ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on Plaintiff's application to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. (Dkt. # 1).

On January 23, 2007, the Clerk received Plaintiff's complaint and application to proceed *in forma pauperis*. (Dkt. # 1). On January 25, 2007, the Clerk sent Plaintiff a letter informing him that he must either pay the court filing fee or submit a proper application to proceed *in forma pauperis* by February 26, 2007, or this matter could be subject to dismissal. (Dkt. # 2).

On March 14, 2007, the Clerk of Court received a letter from Plaintiff inquiring whether he can simply pay the filing fee rather than proceed *in forma pauperis*. (Dkt. # 3). Plaintiff also inquired about the time required to effect service of process and whether service by the U.S. Marshal is included in the payment of the initial filing fee.

1
2 Plaintiff is advised that a review of the Court's records reveals that Plaintiff has brought at least
3 twenty other lawsuits in federal court. (*See* Dkt. #43 in *Farnsworth v. Pierce County Sheriff, et al.*, Case
4 No. C04-5780-RBL-JKA). At least three of these lawsuits have been dismissed as frivolous, malicious, or
5 for failure to state a claim. *See Farnsworth v. Carter*, Case No. C05-5139-FDB (W.D. Wash.);
6 *Farnsworth v. Pierce County, et al.*, Case No. C05-5177-RBL (W.D. Wash.); *Farnsworth v. Glad, et al.*,
7 Case No. C94-774 (C.D. Utah). *See also* Dkt. #43 in *Farnsworth v. Pierce County Sheriff, et al.*, Case
8 No. C04-5780-RBL-JKA (W.D. Wash.). Section 1915(g) of Title 28 of the United States Code provides
9 that a prisoner may not proceed *in forma pauperis* "if the prisoner has, on three or more prior occasions . .
10 . brought an action . . . that was dismissed on the grounds that it was frivolous, malicious, or fails to state a
11 claim . . . unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. §1915(g).
12 This statutory cap on the number of frivolous actions a prisoner may bring as a pauper has been held to
13 apply to claims dismissed both *before* and after April 26, 1996, the statute's effective date. *See Tierney v.*
14 *Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).

15 Because Plaintiff already has at least three prior civil actions that have been dismissed as frivolous
16 or for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2), the Court will recommend that his
17 application to proceed *in forma pauperis* be denied under 28 U.S.C. § 1915 (g), and that unless he pays
18 the required filing fee of \$350.00, the District Court dismiss his case.

19 Therefore, Plaintiff is advised that if he wishes to continue this case, he should pay the required
20 filing fee of \$350.00. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, it is Plaintiff's
21 obligation to serve copies of the Summons and Amended Complaint upon each of the named defendants
22 within 120 days after the filing of his Complaint.

23
24 **ACCORDINGLY, IT IS ORDERED:**

- 25 (1) Plaintiff shall pay the \$350.00 court filing fee **on or before April 30, 2007** .
26 (2) **Failure to pay the filing fee by the above date shall be deemed a failure to properly**
27 **prosecute this matter and the court will recommend dismissal of this matter.**
28

1 (3) The Clerk is directed to send a copy of this Order to Plaintiff.
2
3

4 DATED this 27th day of March, 2007.
5

6
7 
8 Karen L. Strombom
9 United States Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28